

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:12-cr-00020-MR-DLH

THIS MATTER is before the Court on Defendant Keith Vinson's Motion to Sever Offenses [Doc. 120].

I. PROCEDURAL BACKGROUND

On April 4, 2012, the Defendant Keith Arthur Vinson (Vinson), along with several co-defendants, was charged in a Bill of Indictment with various violations of federal law, including conspiracy, bank and wire fraud, and money laundering. [Doc. 1]. A Superseding Bill of Indictment was filed against Vinson and his co-defendants on December 5, 2012. [Doc. 100].

On January 14, 2013, Vinson filed the present Motion, seeking to sever the counts from the Superseding Bill of Indictment related to the Queens Gap Development. [Doc. 120]. The Government opposes Vinson's Motion. [Doc. 146].

II. ANALYSIS

Rule 8 of the Federal Rules of Criminal Procedure provides, in pertinent part, as follows:

The indictment or information may charge a defendant in separate counts with 2 or more offenses if the offenses charged -- whether felonies or misdemeanors or both -- are of the same or similar character, or are based on the same act or transaction, or are connected with or constitute parts of a common scheme or plan.

Fed. R. Crim. P. 8(a). The Court may sever the charged offenses, however, if the joinder of such offenses “appears to prejudice” a party. Fed. R. Crim. P. 14(a).

The Fourth Circuit has recognized that “[w]here offenses are properly joined under Rule 8(a), severance of the offenses is rare.” United States v. Hornsby, 666 F.3d 296, 309 (4th Cir. 2012). The Court “should grant a severance under Rule 14 *only* if there is a serious risk that a joint trial would . . . prevent the jury from making a reliable judgment about guilt or innocence.” United States v. Cardwell, 433 F.3d 378, 387 (4th Cir. 2005) (quoting Zafiro v. United States, 506 U.S. 534, 539, 113 S.Ct. 933, 122 L.Ed.2d 317 (1993). Accordingly, a defendant seeking severance must make “a strong showing of prejudice” resulting from the joinder of the

offenses. United States v. Branch, 537 F.3d 328, 341 (4th Cir. 2008) (quoting United States v. Goldman, 750 F.2d 1221, 1225 (4th Cir. 1984)).

In the present case, the Government has alleged that the scheme to defraud Queens Gap and DM, with the cooperation of a bank insider, was part of the common scheme or plan to secure additional funding for the Seven Falls project. Specifically, the Government alleges that the stolen funds were used to the benefit of Seven Falls and that the lots were pledged as security for a complex series of loans that constitute part of the factual basis for Counts Thirty-Four, Thirty-Seven, and Thirty-Nine through Forty. At the very least, these transactions and events bear a “logical relationship” to one another and therefore are properly joined under Rule 8(a). See Cardwell, 433 F.3d at 385 (noting that a “logical relationship” exists between offenses “when consideration of discrete counts against the defendant paints an incomplete picture of the defendant’s criminal enterprise”).

In arguing for severance of the Queens Gap counts, Vinson contends that the inclusion of these counts creates “the unacceptable risk that the jury would conclude that ‘where there’s smoke there is fire.’” [Doc. 120 at 4]. Such argument, however, fails to establish any prejudice to the

Defendant resulting from the inclusion of these counts. Accordingly, the Defendant's motion for severance of these counts is denied.

IT IS, THEREFORE, ORDERED that Defendant Keith Vinson's Motion to Sever Offenses [Doc. 120] is **DENIED**.

IT IS SO ORDERED.

Signed: April 26, 2013



Martin Reidinger
United States District Judge

